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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,444	06/26/2001	Kazuhiro Tsujita	Q65160	9702

7590 04/06/2006

SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC
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Washington, DC 20037-3202

EXAMINER

RAMIREZ, JOHN FERNANDO

ART UNIT	PAPER NUMBER
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3737

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/888,444	TSUJITA, KAZUHIRO	
	Examiner	Art Unit	
	John F. Ramirez	3737	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☐ Responsive to communication(s) filed on ____.

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-14 is/are pending in the application.

4a) Of the above claim(s) ____ is/are withdrawn from consideration.

5) ☐ Claim(s) ____ is/are allowed.

6) ☒ Claim(s) 1-14 is/are rejected.

7) ☐ Claim(s) ____ is/are objected to.

8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some * c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. ____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>09/10/04;02/05/02</u> .	6) <input type="checkbox"/> Other: ____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5, 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Faupel et al. (US 6,975,899).

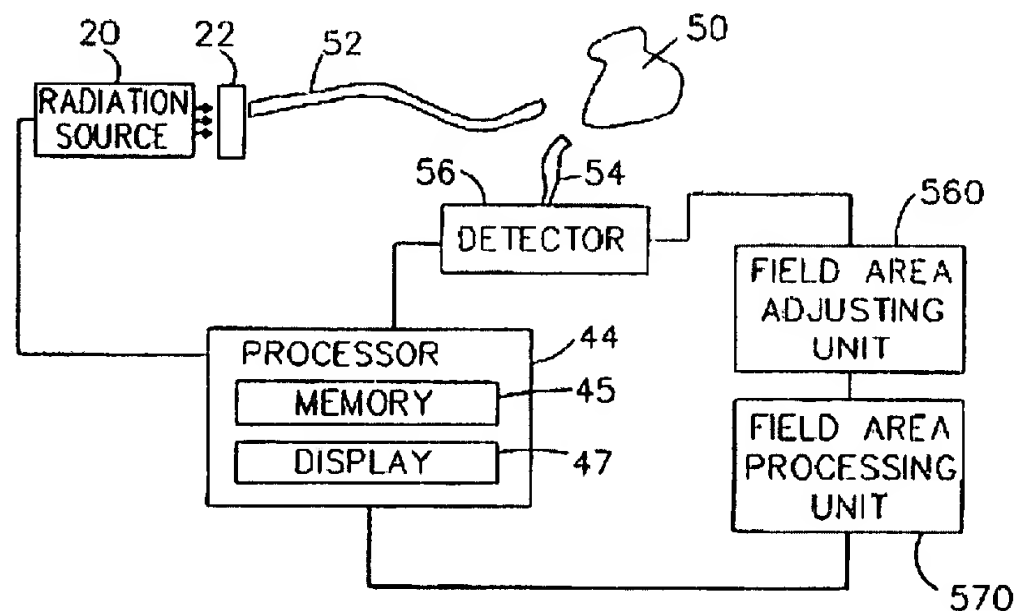


FIG. 11A

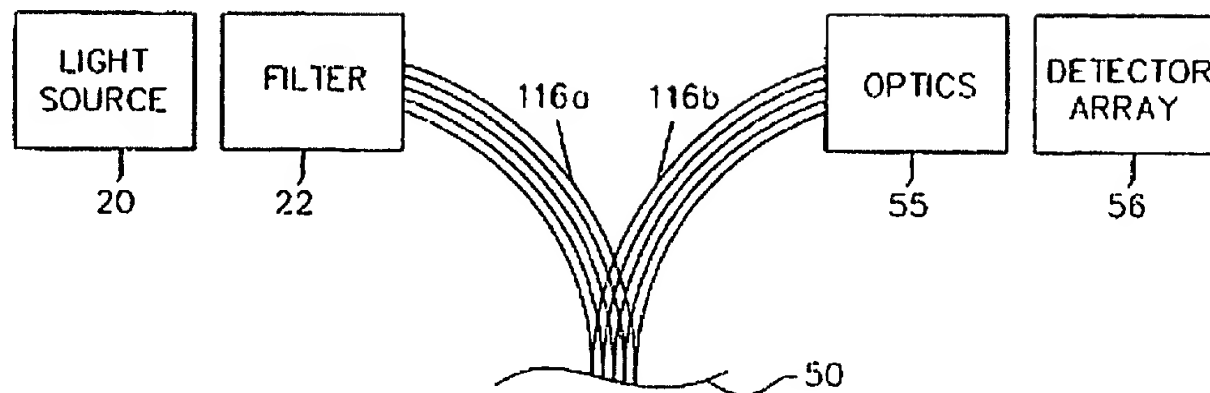


FIG. 10

The Faupel et al. patent shows in Figures 1, 10, 11A and related description, a fluorescent-light image obtaining apparatus comprising excitation light emitting means for projecting excitation light onto a target tissue, and illuminating light emitting means for projecting illuminating light onto the target tissue, and fluorescent-light image obtaining means for obtaining a fluorescent-light image formed of the fluorescent-light emitted from the target tissue upon irradiation thereof by the excitation light, and a normal-image obtaining means for obtaining a normal-image formed of the illuminating light reflected from the target tissue upon irradiation thereof by the illuminating light, further comprising a distance parameter detecting means for detecting a parameter correlating the distance between the distal end of excitation light emitting means and the target tissue, and an excitation light emission controlling means for controlling, based on the parameter detected by the distance parameter detecting means, the output of the excitation light emitted from the excitation light emitting means,

wherein the parameter is based on the light intensity of the fluorescent-light image obtained by the fluorescent-light image obtaining means, wherein the excitation light emission control means is a current controlling means for controlling the current occurring in the excitation light source (col. 10, lines 9, 56).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 6-11, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Faupel et al. in view of in view of Cline et al. (US 6,462,770).

Faupel et al. teaches all the limitations of the claimed subject matter except for mentioning specifically a fluorescent light image system wherein the parameter is based on the pixel values of the entire image or a predetermined portion of a fluorescent-light image obtained by the fluorescent-light image obtaining means, wherein the parameter is the light intensity of the normal-image obtained by the normal-image obtaining means, wherein the parameter is based on the pixel values of the entire image or a predetermined portion of a normal-image obtained by the normal-image obtaining means, further comprising reference-light emitting means for projecting a reference-light onto the target tissue, and reflected-light image obtaining means for obtaining a

reflected-light image reflected from the target tissue upon irradiation thereof by the reference-light, wherein said parameter is based on the light intensity of the reflected-light image obtained by the reflected-light image obtaining means, wherein said excitation light emission controlling means causes the emission of the excitation light from the excitation light emitting means to stop, and wherein said excitation light emission controlling means causes the excitation light from the excitation light emitting means to be emitted at an intensity below a predetermined value.

However, a fluorescent light image system wherein the parameter is based on the pixel values of the entire image or a predetermined portion of a fluorescent-light image obtained by the fluorescent-light image obtaining means, wherein the parameter is the light intensity of the normal-image obtained by the normal-image obtaining means, wherein the parameter is based on the pixel values of the entire image or a predetermined portion of a normal-image obtained by the normal-image obtaining means, further comprising reference-light emitting means for projecting a reference-light onto the target tissue, and reflected-light image obtaining means for obtaining a reflected-light image reflected from the target tissue upon irradiation thereof by the reference-light, wherein said parameter is based on the light intensity of the reflected-light image obtained by the reflected-light image obtaining means, wherein said excitation light emission controlling means causes the emission of the excitation light from the excitation light emitting means to stop, and wherein said excitation light emission controlling means causes the excitation light from the excitation light emitting

means to be emitted at an intensity below a predetermined value are considered conventional in the art as evidenced by the teachings of Cline et al.

Based on the above observations, for a person of ordinary skill in the art, modifying the method disclosed by Faupel et al., with the above discussed enhancements would have been considered obvious because such modifications would optimally adjust the brightness of autofluorescence images and that will objectively quantify the degree of abnormality of the tissue.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John F. Ramirez whose telephone number is (571) 272-8685. The examiner can normally be reached on (Mon-Fri) 7:30 - 4:00 p.m.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian L. Casler can be reached on (571) 272-4956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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03/30/06


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SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700